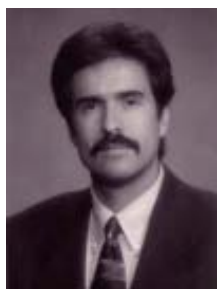




Suitability standards must be followed



By Jorge Gomez,
Commissioner of
Insurance

Recently the National Association of Insurance Commissioners (NAIC) completed work on a model act regulating the sales and marketing of annuity products to senior citizens. OCI staff were integrally involved in drafting and negotiating the final language adopted in the model regulation. Unfortunately, we have had examples of unsuitable sales in Wisconsin that proved that additional regulations in this area are clearly needed.

I am happy to say that most insurers and agents operating in Wisconsin do a good job of providing service to their customers. I believe that an important customer service function is determining the most suitable products for policyholders, meeting their financial needs for both the short and long term.

Both agents and insurers must work together to make sure that this important customer service function is fulfilled. Insurers must provide adequate and appropriate training of their agents, maintain a system to supervise agents, and not offer inappropriate inducements, such

as commissions structured to encourage churning. Insurers also have a role in making sure their agents make appropriate sales. Agents must carefully evaluate the needs of their customers, taking into account the age, financial status and financial goals of each potential policyholder.

The recently adopted NAIC model act requires insurers to develop suitability standards for annuity products that are offered to senior citizens, train their agents and make sure the agents abide with company suitability standards. Insurers will be held more accountable for supervising their agents. Similar to current law, agents will be required to perform a suitability analysis on each annuity transaction marketed to a senior citizen. We will soon be asking the Wisconsin Legislature to make this model act law in Wisconsin.

There have been recent examples of agents who took advantage of senior citizens by inducing them to make unsuitable surrenders or purchases of annuities. Many of you follow the administrative actions reported by this agency and have seen the results of some of our investigations. I encourage you all to take careful note of the new requirements and incorporate them into your business practices.

Be on lookout for illegal health operations

Insurance agents are encouraged to remain alert to operations of illegal health plans. Wisconsin's insurance agents are the best defense for consumers targeted by these scams. Agents should contact OCI regarding any suspicious health plan product. Unfortunately, these plans continue to operate nationally. Some have made sales in Wisconsin.

Wisconsin insurance agents have been solicited to market illegal health

plans. On other occasions, agents discover that a client has been offered such a plan by another agent, through an association, or over the Internet. Know the warning signs and contact OCI immediately. Illegal health plans adopt various forms in an effort to confuse you and consumers. Some of the schemes operating nationally include:

- Plans that claim they can operate as

Please see **ILLEGAL**, pg. 6

Licensing data available on OCI's Web site

By Laurina J. Landphier, Chief
Agent Licensing Section

Insurance licensing data is now available on OCI's Web site at <http://oci.wi.gov>, placing current, accurate data just a few mouse clicks away.

All license types are included on the site, whether they are individuals or firms. The name, address, license number, status, effective date, expiration date, CE compliance date, lines of authority, company appointments and terminations, and adjudicated regulatory actions are also provided.

The site is easy to navigate, and users are able to view and/or print a profile report free of charge.

Hot links included at the site allow users to connect to sites relating to their continuing education status, electronic letters of certification and license renewal features.

OCI hopes this will be a useful tool for licensees, insurers and consumers. Comments and suggestions about the site are encouraged and should be directed to the e-mail address listed on the site itself.

Important information about renewal notices

For the last 2 years, OCI has published the Wisconsin Insurance News (WIN) newsletter only on its Web site. However, this edition of the WIN was enclosed with your **renewal notice**. Please make sure you do not discard your renewal notice. This WIN contains important information concerning a variety of regulatory issues pertinent to the insurance market in Wisconsin.

OCI recommends insurers use electronic options for rate / form filings

OCI encourages insurers to use one of two electronic filing options for faster service and to reduce errors.

Filing through SIRCON or SERFF are both options which provide users with information about what is needed to submit a complete filing. What follows is some information about each option.

Insurers already using SIRCON to submit agent appointments and terminations may wish to consider using SIRCON to submit policy form and rate filings to Wisconsin. The system allows insurers to prepare and submit filings that automatically update the OCI rate and form filing system. Electronic edit checks assure companies that the filing is complete prior to submission. Insurers receive electronic notification of the approval of their filings via the Internet and any required correspondence is completed using e-mail. Revisions to the initial filings can also be submitted elec-

tronically. The system also provides the capability for electronic status checking via the Internet. Insurers may obtain further information by contacting John Alles at (919) 933-9571 or <http://www.innovativeit.com>.

Wisconsin accepts rate and form filings in all lines of business through the System for Electronic Rate and Form Filing (SERFF). Insurers can submit filings to all 50 state insurance departments through SERFF. Further information about SERFF is available to insurers at <http://www.serffcentral.org>.

OCI staff is returning many filings because of coding errors. To reduce your filing's chances of being returned, choose electronic filing.

Please contact Susan Ezalarab at sue.ezalarab@oci.state.wi.us or (608) 266-8885 if you have questions about why your filing was returned.

Reasonable precision for nonrenewal and cancellation of worker's compensation insurance

The Summer 2003 WIN contained an article explaining that the statutes require a "reasonably precise reason" for nonrenewing property and casualty insurance policies. While worker's compensation insurance is a property and casualty line, it is specifically exempted from all of chapter 631, Wis. Stat. However, s. Ins 21.01 (8), Wis. Adm. Code, mirrors its statutory counterpart. The section states that a notice of cancellation or nonrenewal shall state with reasonable precision the facts on which the insurer's decision is based. No such notice is effective unless it so states the facts.

It is not considered reasonable precise to give a nonrenewal reason containing only generalized wording without listing the precise reasons. Examples of reasons that are not precise include "underwriting reasons," "claims history," or "safety program."

One difference between s. 631.36 (6), Wis. Stat., and s. Ins 21.01 (8), Wis. Adm. Code is that the cancellation or nonrenewal for worker's compensation

is effective whether or not the notice states with reasonable precision the facts on which the insurer's decision is based, upon the effective date of replacement insurance coverage obtained by the employer or of an order exempting the employer from carrying insurance under s. 102.28 (2), Wis. Stat.

Section Ins 21.01 (9), Wis. Adm. Code, like its counterpart s. 631.36 (7), Wis. Stat., states that the notice of cancellation or nonrenewal is not effective unless it contains adequate instructions to the policyholder for obtaining insurance through the Wisconsin worker's compensation insurance pool.

If there are questions regarding nonrenewal or cancellation of a worker's compensation insurance policy, please contact Laura Andréasson at (608) 266-0096 or at laura.andreasson@oci.state.wi.us.

Agents must assist employers with WWCIP

Reports indicate employers are not receiving help obtaining coverage

Reports from the Department of Workforce Development (DWD) and the Wisconsin Compensation Rating Bureau (WCRB) have indicated that agents licensed in Wisconsin are not assisting employers in obtaining coverage in the Wisconsin Worker's Compensation Insurance Plan (WWCIP) when coverage is declined or terminated in the voluntary market.

Section 619.01 (3), Wis. Stat., reads: "Every participating insurer and agent shall provide to any person seeking coverages of kinds available in the plans the services prescribed in the plans, including full information on the requirements and procedures for obtaining coverage under the plans whenever the business is not placed in the voluntary market."

As shown, the above section is not limited to worker's compensation insurance; it is applicable to any line of business that has a residual market pool.

The WWCIP is administered by the WCRB. You can access the Pool Handbook and applications to the pool on the WCRB's Web site at <http://www.wcrb.org>. The WCRB's phone number is (262) 796-4540 and the street address is 20700 Swenson Drive Suite 100, Waukesha, WI 53186. The process of applying to the pool is very simple. The WCRB will provide you with the correct classification codes and premium rates to be charged.

Employers that have a gap in their worker's compensation insurance are subject to a fine from the DWD. Hard to place risks can be put into the pool while agents seek coverage elsewhere. There is no penalty for employers coming out of the pool and obtaining coverage in the voluntary market.

If there are questions regarding an agent's duties under s. 619.01 (3), Wis. Stat., please contact Laura Andréasson at (608) 266-0096 or at laura.andreasson@oci.state.wi.us.



Our door is always open
<http://oci.wi.gov>



UPDATE ON WISCONSIN'S CONTINUING EDUCATION

By **Laurina J. Landphier, Chief
Agent Licensing Section**

Easy-Bank Replaced by Internet Banking

Providers of continuing education services have a new way to bank credits on behalf of licensees. Providers can now electronically submit rosters of their students' completed course credits, receive feedback on data entry in real time, access reports online, and use the site to print out their course completion certificates.

With this new service, providers will no longer have to send a diskette, and then wait to see if it will load only to have it returned with an error report. The update is in real time, so licensees will be able to check their transcripts immediately to see if they are in compliance.

With this change, Easy Bank filings will no longer be accepted effective November 1, 2003. Providers are asked to contact Promissor directly at (800) 274-4743 with any questions.

Basic Requirements

All agents who hold a license in any of the major lines of property, casualty, personal lines P&C, life, accident and health insurance, or the limited line of automobile, must meet the continuing education requirements. Your compliance date is printed on your license. ***Course credits may be completed at any time during the two-year period.*** Carryover of credits from one reporting period to another is not allowed.

Reminder: If you completed your requirements prior to January 1, 2003, for the 2001-2003 reporting period, classes you completed after January 1 were automatically banked for the 2003-2005 reporting period.

A list of approved providers and courses is available at Promissor's Web site through a link at OCI's Web site by logging on to <http://oci.wi.gov>, then click on "Agent" followed by "Continuing Education for Insurance Agents." Or, you can log on directly to <http://>

www.promissor.com.

Internet and FaxBack Transcripts Available from Promissor

Promissor has two ways to assist agents in determining their progress toward meeting the continuing education requirements. To request your most current Licensee Continuing Education Transcript, you can use either of the following options:

1) Log on to <http://www.promissor.com>. Select Testing Services, then Insurance, followed by Wisconsin Insurance. Under Continuing Education Services, click on "Licensee Course Transcript," and enter your Wisconsin license number or SSN and last name. You will be able to view and also print your transcript.

2) Call Promissor's Transcript FaxBack System toll-free at (877) 687-8886. You will be required to provide your Wisconsin license number. Once the license number is verified, your latest transcript will be transmitted to the fax number of your choice.

The transcript will permit you to take any action that is necessary to add, delete, or change information that is inaccurate. To correct credit discrepancies, agents are required to contact their continuing education provider(s) directly. These discrepancies can only be resolved between the agent, the provider and Promissor.

Who to Call

Contact Promissor for answers to general questions, to gain information on course availability, and to confirm if credits have been banked in an agent's individual record. They may be reached at (800) 274-4679. *Reminder: Dial the (800) prefix whenever using this number.* You may also fax your request for continuing education information to Promissor at (610) 617-0927.

IRO explained

Understand insured's rights

Agents are often asked to assist insured individuals with filing claims and appealing the denial of a claim. Therefore, agents need to be aware of the process and rights that insured individuals have to file a grievance and to request an independent external review of the claim denial.

Prior to December 1, 2000, the right to file a grievance was only available to enrollees covered by managed care plans. Now, all insured individuals who have coverage under a hospital indemnity, Medicare supplement, Medicare Select, Medicare Cost, or any policy that is a health benefit plan must be notified of their right to file a grievance and the availability of the independent review process.

Chapter Ins 18, Wis. Adm. Code, provides an explanation of grievance rights and information about the independent review process. According to the code, insured individuals or their representative have the right to file a grievance (defined as any dissatisfaction expressed in writing) to the insurer. Insured individuals have the right to have their dissatisfaction heard by the grievance committee. They also have the right to meet with the grievance committee to provide additional oral or written information about their grievance. The administrative code includes specific time frames for handling these grievances.

An independent review request can also be made if the insurance company grievance determination results in upholding its initial denial of the claim and the grievance involves medical necessity or experimental treatment with costs exceeding \$250. The decision of the independent reviewer is binding on both the insurer and the insured.

For more see:

OCI's April 26, 2002 Bulletin at:
<http://oci.wi.gov/bulletin/0402iro.htm>

IRO factsheet:

http://oci.wi.gov/pub_list/pi-203.htm.



INSURANCE INSIGHTS: Small Employers / Workers

AGENT WARNING: Health insurance policies do not cover work-related injuries

It is important to remember that group and individual health insurance policies may not cover work-related injuries. OCI is receiving inquiries from individuals and families who find that they are responsible for paying significant amounts of money for medical expenses related to work-related injuries because these claims are not covered by health insurance policies.

OCI wants agents who market health insurance to be aware that most individual and group health insurance policies include specific exclusions regarding work-related injuries. Agents should determine at the time of application whether an individual or family member has coverage for work-related activity. Agents should encourage self-employed individuals to purchase worker's compensation coverage, a rider to their health insurance policy or occupational accident and disability policies that provide some protection in the event of work-related injuries.

Additional questions may be directed to Linda Low at (608) 267-5029 or linda.low@oci.state.wi.us.

NEW "AGENT/AGENCY LOOKUP"
FEATURE now available online.
<http://oci.wi.gov>

Uniform application for small employer health benefit plans

Beginning August 1, 2003, s. 635.10 Wis. Stat., and s. Ins 8.49, Wis. Adm. Code, require small employer insurers and their agents to use the small employer uniform employee application form developed by OCI when a small employer applies for a health benefit plan offered by the insurer.

The new requirement is intended to reduce the number of forms employees are required to complete when a small employer applies for group health insurance. It also permits small employers to seek premium quotes from multiple insurers using one form.

In summary, s. Ins 8.49, Wis. Adm. Code, provides that:

- Small employer insurers must treat and accept a photocopy of the uniform employee application as an original.
- The information in the uniform employee application must be considered current by the small employer insurer if it is received within 45 days of completion of the most recently signed uniform employee application form. Insurers may accept and use additions or modifications of information provided by the employee within the same 45-day period.
- Small employer insurers may require that new applications be completed if an application is not received by the required deadline or if the signed authorization is incomplete.

• Small employer insurers are required to forward uniform employee applications to other small employer insurers identified within the application within 5 business days, provided the small employee application authorizes that other small employer insurers receive a copy of the uniform application.

• Agents using the uniform employee application to obtain premium information for a small employer must, within 5 business days of receiving the application, forward copies of the uniform employee application to all small employer insurers identified and authorized by the small employer to receive the application.

• Small employer insurers must provide premium information to small employers within 10 business days from the receipt of all information needed to underwrite the group, including completed uniform employee applications.

For more on the uniform app:

A copy of the rule: <http://oci.wi.gov/rules/849em2003.pdf> or contact Inger Williams at (608) 264-8110.

A copy of the application: <http://oci.wi.gov/ociforms/26-501.pdf>

September 3, 2003 Bulletin: <http://oci.wi.gov/bulletin/0903smap.htm>

For e-mail notifications regarding

Bulletins: <http://oci.wi.gov/listserv.htm#subscribe>

Important small employer health insurance clarification

OCI continues to receive inquiries from agents and small employers asking questions regarding the amount of premium small employers are required to contribute towards an employee's group health insurance coverage. We are also receiving questions regarding whether a specific employer would be considered a small employer.

Wisconsin insurance statutes and ad-

ministrative codes do not address the amount of premium small employers are required to contribute towards an employee's group health insurance coverage. Rather, the employer contribution requirement is established by the insurance company issuing the coverage.

Prior to October 1997, small employer insurers were required to offer to small employers the option of applying

for a Basic Health Benefit Plan. Small employers were required to contribute either 40-50 percent of an employee's premium when insurers issued the Basic Health Benefit Plan. However, this statute was repealed in October 1997.

The definition of small employer is included in s. 635.02 (7), Wis. Stat. It defines a small employer as "with re-

Please see CLARIFICATION, pg. 5

Privacy requirements under Wisconsin insurance law

Wisconsin has enacted statutes and administrative codes that provide consumers with protection over the privacy on their medical and financial information.

GLB required that Wisconsin create regulations to prevent the federal preemption of its insurance privacy and consumer protection laws.

Act of 1996 (HIPAA) and Gramm-Leach-Bliley Act (GLB) enacted in 1999.

GLB required that Wisconsin create regulations to prevent the federal preemption of its insurance privacy and consumer protection laws. Wisconsin enacted Ch. Ins 25, Wis. Adm. Code, which is based on the National Association of Insurance Commissioners (NAIC) Privacy of Consumer Financial and Health Information Model Regulation.

Ch. Ins 25, Wis. Adm. Code, should be of particular interest to insurance agents because it addresses licensee responsibilities when sharing consumer and

customer nonpublic personal financial and health information with third parties. Insurance agents are licensees of this office, so the rule applies to their activities. The administrative code requires that a licensee provide written notice of its privacy policies and practices. It also establishes requirements for privacy notices.

Insurance agents may, for the most part, rely on the insurance companies with which they are listed to provide the required notices and disclosure. However, insurance agents who perform activities in addition to marketing products for insurance companies or who share client personal information may be responsible for obtaining authorization and providing notice to clients who meet the definition of consumers and customers. The Frequently Asked Questions NAIC Privacy of Consumer Financial and Health Information Model Regulation publication is available at: http://www.naic.org/privacy/publications/1-12-01_FAQ.pdf.

OCI's Bulletin regarding GLB is available at <http://oci.wi.gov/bulletin/0701gram.htm> and <http://oci.wi.gov/bulletin/0601priv.htm>. For more on HIPAA visit: <http://cms.hhs.gov/hipaa>.

CLARIFICATION from pg. 4

spect to a calendar year and a plan year, an employer that employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year. The definition of eligible employee is included under s. 632.745 (5) (a), Wis. Stat. An "eligible employee" is defined as an employee who works on a permanent basis and has a normal work week of 30 or more hours. A copy of the complete definitions of these terms and others that apply to group coverage are included in the statutes and are available at: <http://www.legis.state.wi.us/rsb/stats.html>.

Updated Publications

The Office of the Commissioner of Insurance now has three of its consumer publications available in Spanish.

The Consumer's Guide to Auto Insurance, The Consumer's Guide to Homeowner's Insurance, and The Consumer's Guide to Insurance can all be downloaded from http://oci.wi.gov/pub_list.htm, or can be requested from OCI by calling 1-800-236-8517. This is the first time the *Auto* and *Insurance* guides have been available in Spanish. The *Homeowner's* guide has been updated for 2003.

DID YOU MISS AN EDITION OF THE WIN?
http://oci.wi.gov/ins_rev.htm

Statutes amended to require prescription drugs for diabetes

Effective January 1, 2003, s. 632.895 (6), Wis. Stat., was amended to require that prescription drugs for the treatment of diabetes be included under the diabetic mandate. Agents need to be aware of the language in this amendment in order to help insured individuals, especially those with Medicare supplement coverage, understand the coverage available to them because of these changes to the diabetic mandate.

Effects on Medicare Supplement Policies

Medicare supplement policies are required to provide coverage of prescription drugs for the treatment of diabetes. However, these prescription drug ex-

penses for the treatment of diabetes are subject to the same deductibles and coinsurance requirements as are applied in prescription drugs for the treatment of other medical conditions. Therefore, prescription drugs for the treatment of diabetes under Medicare supplement policies that include a catastrophic drug benefit in the base policy would be subject to the \$6,250 prescription drug deductible.

Effects on Individual / Group Policies

Policies that provide prescription drug coverage may apply the same deductibles, coinsurance amounts and limitations to prescription drugs for the

treatment of diabetes as are applied to the other prescription drugs covered under the policy. Policies that provide coverage for the treatment of diabetes, but do not cover prescription drugs *must still cover prescription drugs for the treatment of diabetes*. Deductibles, coinsurances and coverage limitations that apply to other covered expenses would apply to the prescription drug expenses for the treatment of diabetes.

A copy of OCI's October 16, 2002 Bulletin regarding the diabetic mandate is available on OCI Web site at <http://oci.wi.gov/bulletin/1002diab.htm>.

ILLEGAL, from pg. 1

“self-funded” ERISA plans.

- Plans that offer an employer a “fixed contribution” for coverage under a “single employer” self-funded plan with stop loss coverage.
- Plans that offer stop loss coverage from an unlicensed (often bogus) off-shore insurer.
- Plans that claim they are “union” health plans.
- Plans that purport they are single employer plans because the operation is an “employee leasing” or “professional employee organization” (“PEO”).
- Plans that purport to be “self-funded” that are sold by agents, through associations or through the Internet.
- Plans that purport employers’ excess

claims are paid by “loans” or “advances” by the operator to the employer.

Some of the warning signs of an illegal health plan scam are: **1)** rates that are too good to be true, **2)** no or little underwriting, **3)** claims that the U.S. Department of Labor or ERISA solely regulate the plan, **4)** an unlicensed stop loss insurer, **5)** a stop loss policy with unusually low attachment points, **6)** claims that the employer will pay a “fixed contribution” for a “self-funded” plan, or **7)** claims that agents marketing a plan are “labor consultants” or “business agents.” Wisconsin insurance agents know they have a duty, spelled out in s. 618.39, Wis. Stat., and s. Ins 2.16, Wis. Adm. Code., to protect their customers from these illegal health plans. The OCI urges you to promptly report any suspect plan to protect consumers and to preserve your professional standing.

**IMPORTANT****News & Notes****IMPORTANT****Change of Resident Address**

If you have a **resident** address change, please notify the Agent Licensing Section in writing at **P.O. Box 7872, Madison, Wisconsin 53707-7872**, by fax at **(608) 267-9451**, or by e-mail at agentlicensing@oci.state.wi.us. Telephone requests for change of address are not accepted.

Biennial Regulation Fees

Please keep in mind that failure to pay your regulation fee by **February 15** will result in the *suspension of your license*.

Future Editions of the WIN

We hoped you enjoyed reading this edition of Wisconsin Insurance News. The WIN is published quarterly on OCI's Web site. All licensees are strongly encouraged to periodically check the site at <http://oci.wi.gov> for important regulatory information.

Administrative Actions

This edition of the Wisconsin Insurance News (WIN) does not include the usual listing of administrative actions taken by OCI. The actions can be found on OCI's Web site at <http://oci.wi.gov/admact/admact.htm>.

**Wisconsin Insurance News**

Published quarterly by the Office of the Commissioner of Insurance, State of Wisconsin, to inform interested parties about Wisconsin's insurance market and its regulation.

Governor:	Commissioner	WIN Editor:
Jim Doyle	of Insurance:	Scott Larrivee
	Jorge Gomez	

< LEFT: The capital dome peaks out from behind the trees outside of OCI's new offices at 125 South Webster Street.

DO YOUR PART

Please recycle this newsletter when you are finished with it.

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